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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,588	12/20/2001	Frederic Andre	SANSYL002	1696

5487 7590 04/06/2006
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EXAMINER

FUBARA, BLESSING M

ART UNIT PAPER NUMBER

1618

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Examiner acknowledges receipt request for continued examination filed under 37 CFR 1.114, request for extension of time, IDS, amendment and remarks, all filed 1/03/06. Claims 1, 3, 4, 6-9, 11-23, 25-33 and 35 are pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 1/3/06 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 3, 4, 7-9, 11-23, 25-33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talton (US 6,406,745).

Talton discloses composition comprising coated core comprising particles, phosphatidylcholine zwitterion, morphine, EUDRAGIT, HPMC (abstract, column 12, lines 12-22; column 20, line 13; columns 21 and 22; Examples 3, 4 and 9). The difference between the instant claims and the prior art is the amount of the zwitterionic surfactant in relation to the EUDRAGIT polymer. Regarding the size of the particles, there is no demonstration that the

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recited sizes provide unusual/unexpected results. And generally, differences in amounts of the surfactant will not support the patentability of the subject matter encompassed by the prior art unless there is evidence indicating such amount is critical. "W[here] the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the dosage of Talton. One having ordinary skill in the art would do so and to use amounts of the surfactant relative to the methacrylate copolymer, an amount that would be expected to produce dosage form having the desired release profile.

4. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not disclose cocamidopropylbetaine zwitterionic surfactant.

CLAIM 19: this claim does not have the proper status identifier, claim 35 is a new claim and thus claim 19 should have been currently amended.

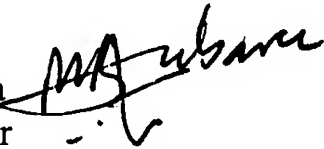
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Blessing Fubara
Patent Examiner
Tech. Center 1600

A handwritten signature in black ink, appearing to read "Blessing Fubara", is written over the printed name and title.